



**RCA
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 46
AGENDA DATE: Thu 10/28/2004
PAGE: 1 of 1

SUBJECT: Conduct a public hearing and approve an ordinance amending Chapters 2-1, 11-1, 25-2, 25-3, 25-6, 25-10, and 25-11 of the City Code relating to the Historic Landmark Commission, ad valorem tax exemptions and abatements, historic landmarks, historic area combining districts and historic sign districts, and building demolition and relocation permits; and repealing Sections 2-1-292 and 2-1-295 of the City Code.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: N/A

REQUESTING Neighborhood Planning **DIRECTOR'S**
DEPARTMENT: and Zoning **AUTHORIZATION:** Alice Glasco

FOR MORE INFORMATION CONTACT: Jana McCann, 974-6096; Steve Sadowsky, 974-6454; Sylvia Arzola, 974-6448

PRIOR COUNCIL ACTION: 9/25/03 - the City Council created the Historic Preservation Task Force

3/25/04 - The Historic Preservation Task Force presented their recommendations to Council;

4/22/04 & 6/10/04 - Council discussed the Task Force recommendations.

8/26/04 - Council reconvened the Historic Preservation Task Force.

BOARD AND COMMISSION ACTION: Reviewed by Historic Landmark Commission and the Planning Commission.

PURCHASING: N/A

MBE / WBE: N/A

On September 25, 2003, the city Council asked the Historic Preservation Task Force to evaluate and identify changes to the City's Historic Preservation Program, specifically the tax abatements, the landmark designation criteria, treatment of owner-opposed cases and a local historic district ordinance. The Task Force is currently reviewing its previous recommendations and will submit an amended report at the end of their deliberations. The Historic Preservation Office of NPZD has developed recommended code amendments that address each item of concern to Council and the Task Force.

PreserveAustin

July 13, 2004

Mr. Chris Riley, Chair
Planning Commission
City of Austin
P.O. Box 1088
Austin, Texas 78767

Dear Chairman Riley and Commissioners,

PreserveAustin is an organization of preservation professionals and community leaders who are committed to assisting the City with the development of state-of-the-art, regionally-appropriate and publicly-inclusive strategies for the protection of our cultural and natural resources. We have studied the proposed ordinance revisions over the past few months, and we would like to take this opportunity to comment on the staff recommendations.

We fully support the comprehensive recommendations of the City Historic Preservation Officer and city staff, with these few but important exceptions:

1. We wholeheartedly believe that a petition endorsed by 50% of property owners to *initiate* a proposed historic district is far too restrictive and unreasonable. It will take a great amount of effort and commitment for the property owners of an area to organize themselves in support of a local district. The initiation process should be simple and straightforward. For point 2 of the initiation process, we strongly recommend that the 50% petition be deleted. A letter of support from the applicable neighborhood association may be an appropriate alternative, if demonstration of local support is needed. (Prop I, p.1)
2. National Register criteria recognize the value of historic landscape features as character defining features of a historic area and contributing elements within a historic district. With that in mind, we recommend inclusion of a reference to "historic landscape features and elements" as contributing elements that may comprise the district. (Prop I, p. 1)
3. We value the use of established National Register standards for the evaluation of local districts, and encourage consultation with the THC's professional staff, but we do not support a required State review or approval of a local historic district nomination. No other Texas city imposes this State review requirement, and the terms of such a review in Austin have not been determined. Across the US, individual communities review their own histories, resources and threats in order to develop designation criteria appropriate for themselves. These typically allow for National Register-eligible districts to be included as local districts, but also include other procedures or standards that accommodate local needs and circumstances. We support our local staff, Landmark Commission, and Council's abilities to determine what constitutes a local historic district, and we are concerned that adding a State level review requirement would be unprecedented and unnecessary. We encourage deletion of this third-party review requirement. (Prop I, p.1-2)
4. The boundaries of an established district should not be permitted to be reduced to allow for "major new development". Such developments should be constructed in accordance with the approved District Preservation Plan, as that vehicle will define the manner in which the new development can "support the architectural, historical, archeological or cultural character or economic viability of the district". We recommend deletion of bullet two of staff's criteria to reduce a historic district. (Prop I, p. 2)

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5. We believe that districts should have the option to develop requirements for additions and exterior modifications to non-contributing buildings in the District Preservation Plan/Design Standards that would supercede the city Compatibility Standards in order to maintain the scale, appropriate use of materials, and character of the historic district. We do not support "historicizing" non-contributing buildings, but maintain that sensitive rehabilitation and new construction standards are appropriate planning tools for all buildings within in a historic district. (Prop I, p. 4)
6. We support administrative review of building additions to historic properties less than 600 square feet only if they are not clearly visible from the public right of way. Visible additions of any size should go to the HLC for a Certificate of Appropriateness review. (Prop III, p. 1)
7. We support administrative review and approval for small projects that involve the addition of pools, decks and other landscape features that do not physically impact the historic building, as long as the site or specific site features are not themselves designated, or included in the property designation as character-defining. (Prop III, p. 2)
8. We understand that the city legal department will not allow a low-income tax exemption for rehabilitation of contributing properties within a historic district, even though this incentive is codified in several other cities. If tax exemptions must be replaced with tax freezes in these instances, we suggest that the term of the freeze should be extended to 10 years, and that the expenditure threshold should be lowered to 10% of pre-improvement value. The low-income incentives should be available for all property types, including owner-occupied residential, single and multi-family rental and commercial properties. (Prop V, p. 2)
9. The existing tax incentives for local landmarks are unique to Austin. This program merits further study to determine how or if the tax abatements contribute to community reinvestment, tourism, and resulting improved quality of life. PreserveAustin is in the process of securing funds to study the economic impacts of historic preservation in Austin to determine the effectiveness of the current and proposed incentives, and to assist in the development of new recommendations where needed. As an interim measure, we support staff recommendation for a 25% reduction in land value abatements if it is absolutely necessary to further the overall goals of the local historic preservation program. (Prop V)

In addition to staff recommendations and our refinements listed above, we strongly recommend your full support of the recommendations of the Historic Landmark Commission, provided in a separate resolution.

We greatly appreciate the work of the City Historic Preservation Office, the Historic Landmark Commission, the Historic Landmark Task Force, the City legal department, the Planning Commission and the City Council to ratify the many revisions needed to effect positive change in the Austin historic preservation program.

Jeffrey M. Chusid, Director, Historic Preservation Programs, U.T. Austin School of Architecture,
Preservation Architect, APT Texas President, HSA Board Member, National Council on
Preservation Education Member, NTHP Forum Member, Barton Hills neighborhood

Sharon Fleming, AIA, Preservation Architect, Texas Society of Architects Historic Resources Committee
Chair, APT Member, PT member, Old Enfield neighborhood

Christopher Hutson, Preservation Architect, APT Texas Secretary/Treasurer

Peter Ketter, Historic Survey and Outreach Coordinator, Cherrywood neighborhood

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Lisa Laky, Attorney, current HLC Chair, Old West Austin neighborhood

Laurie Limbacher, AIA, Preservation Architect, current HLC Member, HLTF Ex-Officio Member, TSA
Historic Resources Committee Member, APT Member, Heritage neighborhood

Alan Marburger, Preservation Consultant, Hyde Park neighborhood

Chase Martin, Preservation Consultant, Brykerwoods neighborhood

Susan Moffat, Neighborhood Advocate, Hyde Park neighborhood

Julie Morgan Hooper, Preservation Consultant, current HLC Member, former HSA Executive Director,
Crestview neighborhood

Terri Myers, Preservation Consultant, State Board of Review for National Register of Historic Places
Member, NTHP Forum Member, Hancock neighborhood

Tere O'Connell, Preservation Architect, former HLC Member, HLTF Member, APT Member, HSA
Member, PT Member, Old West Austin neighborhood

Katy O'Neill, Neighborhood Advocate, Old West Austin neighborhood

Candace Volz, ASID, Interior Designer specializing in historic American interiors, AHCA board
member, APT Member, Old West Austin National Register Historic District Co-Chair,
Pemberton Heights neighborhood

John Volz, Preservation Architect, APT Member, HPEF Board Member, PT Member, Pemberton Heights
neighborhood

AIICA: Austin History Center Association

AIA: American Institute of Architects

APT: Association for Preservation Technology

ASID: American Association of Interior Designers

HLC: Historic Landmark Commission

HLTF: Historic Landmark Task Force

HPEF: Historic Preservation Education Foundation

HSA: Heritage Society of Austin

NTHP: National Trust for Historic Preservation

PT: Preservation Texas

TSA: Texas Society of Architects

Economic Benefits of Preservation

Members of PreserveAustin believe that historic preservation makes good economic sense. This belief has been informed by a number of studies from cities and states around the country that show measurable, tangible benefits of historic preservation initiatives and, specifically, a positive rate of return on tax credits and abatements extended by municipalities.

Communities preserve historic buildings for any number of reasons – cultural, architectural, environmental, social and historical among them. Yet, as more research is completed assessing the value of historic preservation to a community, it has become apparent that historic preservation also is an important economic development tool.

The President's Advisory Council on Historic Preservation has identified the contributions of preservation to urban revitalization as including:

- Stimulation of private investment
- Stimulation of tourism
- Job creation
- New businesses formed
- Pockets of deterioration and poverty diluted
- Increased property and sales taxes
- Enhanced quality of life and the sense of neighborhood and pride
- Compatible land use patterns

Donovan Rypkema, recognized as an industry leader in the economics of historic preservation, has written extensively on the issue and notes that a study undertaken by the University of South Carolina and the National League of Cities found that of the 45 economic development tools identified by mayors, the 7th most often cited was historic preservation.

Preservation issues should be considered in light not only of the cost of abated property taxes but also in light of the return on the preservation investment through direct and indirect economic benefits to Austin. UT Economist Michael Oden explains that

"A historic preservation tax abatement program is not a pure tax expenditure but an investment. In the micro sense, the investment adds value to surrounding properties, thus increasing the tax base in the neighborhood. The macro effect preserves the attractiveness and character of the city, thus adding value across the city while attracting business investment and economic growth."

Any discussion of tax incentives should take into account the multiplier effect of the benefit of such tax incentives. We further encourage a comparison of the *type* of economic benefits that preservation generates in comparison to new construction. Rypkema's study shows that

1. Preservation projects retain a higher percentage of dollars in the community versus generating profits for large corporations outside the city.
2. Preservation projects create more local jobs and increase local household incomes, thus affecting local retail sales.
3. Preservation is the basis for the benefit of heritage tourism.

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Another study, *Historic Preservation and Residential Property Values: An Analysis of Texas Cities*, completed by the Center for Urban Policy Research at Rutgers University and published in 2000 in *Urban Studies*, looked at the impact of historic preservation on property values in nine Texas cities. The results of this study suggest that historic preservation generally has a positive impact on property values and that historic designation is associated with average property value increases ranging between 5% and 20% of the total property value. While the study did not examine issues of gentrification, it did recommend that communities should address the issue as part of their larger preservation initiatives. The authors noted that preservation initiatives can and should effectively mitigate the impacts of gentrification using techniques seen in places such as Savannah and Pittsburgh to successfully retain affordable housing as part of a community's preservation program.

In 2002 the City Council's task force on "Gentrification Implications of Historic Zoning in East Austin" dealt with citizens' concerns about the effects on surrounding property values of historic designation of homes in East Austin. A number of possible strategies for mitigating any tax increases for low income residents were included, and some have been implemented. Adoption of local historic districts is the most effective tool for preventing unwanted gentrification, as the districts may limit demolition of existing structures and adopt design guidelines for rehabilitation and infill construction.

Ordinance Revisions Affecting The Historic Landmark Commission

CREATION AND MEMBERSHIP § 2-4-531

The Historic Landmark Commission has 11 members, as specified by §2-4-531. Five of the 11 positions on the Commission are to be filled with representatives of specified organizations; the remainder are at-large. The Code specifies that Historic Landmark Commissioners must have knowledge of and experience in the architectural, archeological, cultural, social, economic, ethnic, or political history of the city. Commission members serve 2-year terms. §2-4-532 lists ex-officio members of the Historic Landmark Commission. Recommendations include:

- Reduce the number of members of the Historic Landmark Commission from 11 to 9, by eliminating 2 at-large positions in accordance with a study developed by the Boards and Commissions Process Review Task Force.
- As a professional advisory body, every member of the Historic Landmark Commission should have demonstrated knowledge of the architectural, archeological, cultural, social, economic, ethnic, or political history of the city. The composition of the Commission should include:
 - A representative of the Heritage Society of Austin
 - A representative of the American Institute of Architects
 - An additional architect licensed by the State of Texas
 - A historian
 - An architectural historian
 - An attorney licensed by the State of Texas
 - A real estate professional licensed by the State of Texas
 - An archeologist

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- A city planner

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HISTORIC LANDMARK PRESERVATION PLAN § 2-4-535

Here is a passage from Page 25, which is part of a discussion about what is happening in preservation in Austin "today" (in 1981) -- how the program got started, with the assistance of HSA, how the state and federal governments have played a limited role in the program and an assessment of the accomplishments and vision of the HLC:

The Historic Landmark Commission has been highly effective in designating a large number of the most significant 19th-century buildings in Austin as landmarks. At the same time the Commission has taken a narrow view of its charge, concerning itself overwhelmingly with 19th-century structures and never with districts, and confining its concerns to the designation of landmarks rather than taking a leadership role in the full range of preservation activities. This conservative approach has been appropriate to the initial stages of the program. The early structures are fundamental to the subsequent history of the city, in many cases they were the most vulnerable, and they were the most publicly acceptable and politically feasible structures with which to build a program. But such an approach has limited the long term effectiveness of the program by leaving important aspects of the city's heritage exposed and by creating a false impression of the scope and potential of historic preservation.

While the interpretation of the criteria for designation of landmarks has been too narrow in some respects, the standards for granting Certificates of Appropriateness have been too lenient (for example, in the ground floor alterations to some commercial structures along East Sixth Street). Such leniency leaves the entire ordinance, including the tax exemption benefits of designated structures, vulnerable to court challenges and opens to question the certifiability of designated structures for benefits under the federal Tax Reform Act of 1976.

The demands of preservation in Austin today require the correction of these deficiencies, but at least as importantly they require a broader perspective on the entire scope of preservation activity."

The plan goes on to recommend that the HSA and the HLC be aware of the full range of preservation activity, coordinate their resources for maximum effectiveness and understand the role of State and Federal governments in preservation to take better advantage of their programs and resources.

In a later section, the preservation plan discusses the tax abatement. Basically, it says that the fact that the abatement is available to eligible properties for an indefinite period of time pushes the HLC and the CC into a stricter interpretation of the designation criteria and a more conservative approach with respect to designation of significant structures. The preservation plan recommends that the abatement be provided for a maximum term of 10 years, in order to allow more buildings to participate in the program and be protected.

HISTORIC LANDMARK DESIGNATION CRITERIA § 25-2-351

PreserveAustin supports the revisions to the Historic Landmark Designation Criteria as recommended by the Landmark Commission, as follows:

1. Be at least 50 years old, except if the property possesses exceptional importance as set forth in National Register Bulletin 22, National Park Service, 1996; AND
2. Retain sufficient integrity of materials and design to convey its historic appearance; AND
3. Meet either Criterion (A) or TWO of lettered Criteria (B) – (F):
 - (A) The property is currently recognized for historical/architectural significance by being:
 1. Individually listed in the National Register of Historic Places; or
 2. Designated a Recorded Texas Historic Landmark; or
 3. Designated as a State Archeological Landmark; or
 4. Designated as a National Historic Landmark.
 - (B) The property possesses architectural or artistic significance:
 1. Embodies the distinguishing characteristics of a recognized architectural style or method of construction; or
 2. Represents technological innovation in design and/or construction; or
 3. Contains features representing ethnic or folk art, architecture, or construction; or
 4. Represents the significant work of a noted architect, builder, or artisan; or
 5. Represents a rare example of an architectural style; or
 6. Bears a physical or contextual relation to other historically- or architecturally-significant structures or areas.
 - (C) The property is substantially associated with persons, groups, institutions, businesses, or events of historical significance, which contributed to the social, cultural, economic, development, or political history of the city, state, or nation, OR is representative of a culture or group of people in a historical era through its architecture, method of construction, or use.
 - (D) The property possesses archeological significance in that it has, or is expected to yield, significant data concerning human history or prehistory of the region.
 - (E) The property possess value to the community in that it:
 1. Significantly represent the cultural, economic, social, ethnic, artistic, or historical heritage of the city or an area thereof;
 2. Has a location, physical characteristics, or other unique features which greatly contribute to the character or image of the city, a neighborhood, or a population group;
 - (F) The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.

LOCAL HISTORIC DISTRICTS

Austin's National Register Districts: Austin has a total of 20 National Register designated historic districts. This is a federal designation, designed to honor the designated areas and protect them from the adverse effects of federal actions like highway and dam construction. All of these historic districts are prime candidates for local district designation, in addition to numerous other historic areas of Austin that are heretofore unrecognized.

- Congress Avenue
- Sixth Street
- Barton Springs
- Zilker Park
- Hyde Park
- Shadow Lawn
- Bremond Block
- Swedish Hill
- Rainey Street
- Willow Spence
- Oakwood Cemetery
- Clarksville Historic District
- Camp Mabry
- Old West Austin – comprising Pemberton, Brykerwoods, and Old Enfield neighborhoods
- Laguna Gloria
- Little Campus
- McKinney Homestead
- Moore's Crossing
- Perry Estate
- Edward H. Rogers Homestead

Benefit of Local Districts: In order to provide protection of the historic character of these neighborhoods, local historic districts with their requisite design standards must be enacted and their requirements enforced. Without this tool, Austin may have little to show future generations in terms of traditional neighborhoods, historic trends and standards in craftsmanship and design, and the way of life that formed the foundation for the present and future of Austin. Establishing and maintaining historic districts will preserve and protect historic properties within their contexts and will illustrate the rich and diverse Austin's diverse historic lifeways and which are still viable, livable communities in which to live and work.

Historic Districts: A Historic District is a concentrated and cohesive grouping of cultural resources (buildings, structures, objects and sites) that retain a significant amount of their historic character.

Most local historic district designations in Texas are initiated with their listing in the National Register of Historic Properties (NRHP). The process used for the NRHP is often more refined, broader in scope, and has less impact on private ownership than, for instance, local historic zoning ordinances. Many cities extract NRHP criteria from their own district ordinances and often add other binding components as well as tax abatements.

The HLC, Task Force, and PreserveAustin agree on the following:

- The district should convey a strong sense of the past and possess a high concentration of relatively unaltered historic properties within a well-defined area.
- At least 50 percent of the total number of buildings, structures, objects and sites should be identified as "Contributing" to the historic character of the district.

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- The boundaries must be logically determined and avoid artificial or convoluted lines (gerrymandering) to achieve the recommended 50-percent Contributing threshold.

Contributing Properties: A Contributing property is a building, site, structure or object that adds to the historic architectural qualities, historic associations, or archeological values for which a property is significant because:

- it was present during the period of significance and possesses historic integrity reflecting its character at that time or is capable of yielding important information about the period (generally archeology), OR
- it independently meets NRHP or Austin Historic Landmark criteria

Thus, they must contribute to or enhance the district's ability to evoke a sense of the past, most often a specific period of time. Contributing buildings are at least 50 years old and are either unaltered or have had relatively minor and reversible non-historic changes.

Noncontributing Properties: A property that does not add to the historic architectural qualities, historic associations, or archeological values of the district's historic character is classified as "Non-contributing." Specifically, a building, site, structure or object is classified as non-contributing because it meets one or more of the following criteria:

- it was not present during the period of significance,
- due to alterations, disturbances, additions, or other changes, it no longer possess historic integrity reflecting its character at that time or is incapable of yielding important information about that period, or
- it does not "independently meet the NRHP criteria" In other words, properties built less than 50 years ago or historic structures that have been changed within the past 50 years to such an extent that they no longer resemble their original and/or historic appearance and are considered "Non-contributing". It is possible to restore architectural integrity to an older structure, thereby changing it to Contributing status.

Local Historic District Application and Designation:

The local historic district application and designation process must incorporate the following procedures and processes:

- An application to designate a local historic district must contain an inventory of the properties included in the historic district and a professional evaluation of their status as a Contributing or Non-Contributing structure;
- Council must approve any boundary changes to a local historic district, and may enlarge a district to include an important property if the owner supports inclusion, or may reduce a district if it finds that a building no longer contributes to the district, for a new development which supports the character or economic viability of the district, or if an owner demonstrates that inclusion in

the district creates an economic hardship which limits his or her ability to maintain the property.

- Each local historic district must have a District Preservation Plan, which defines the character of the district and determines the important buildings and features for preservation. The District Preservation Plan specifies design, scale, architectural character and materials for new construction and modifications to all buildings within the district. The provisions of the District Preservation Plan would be binding upon all property owners within the district. The District Preservation Plan may modify site development regulations, identifying special compatibility standards for the district that supercede the City's Compatibility Standards.
- The City Historic Preservation Office may approve applications for building permits within the local historic district for specified minor projects that comply with the District Preservation Plan.
- The Historic Landmark Commission will review all applications for demolition or removal of buildings contributing to the local historic district; the City Historic Preservation Office may approve applications for demolition or removal of non-contributing structures.
- The Building and Standards Commission should issue a repair, rather than a demolition order in cases involving buildings that contribute to a local historic district.
- Contributing buildings in local historic districts would be protected by the same penalties applicable to illegal demolition of designated historic landmarks.

TAX INCENTIVES FOR HISTORIC LANDMARKS §5-5-21

The City of Austin supports historic properties as a vital component of our city character that is worthy of preservation and protection. As with the Smart Growth program, where hundreds of thousands of dollars are distributed to projects that demonstrate the type of development that is appropriate for Austin, historic landmarks receive financial incentives for continued preservation.

The financial incentives for H-zoned properties in Austin are the most generous in the country. Owner occupied residences are eligible for a 100% abatement on the improvements and 50% abatement on the land value. Commercial and other properties are eligible for a 50% abatement on the improvements and 25% abatement on the land value. These abatements are provided annually with no term limit provided that the property owner maintains the property in excellent condition and in compliance with the local building code. An annual staff inspection and Landmark Commission review enforce these provisions. In 2003, 164 commercial properties and 140 owner occupied residences benefited from this abatement: 304 out of the 399 designated landmark properties. The remainder can be attributed either to a lack of application for the abatement, or the property was not maintained to City standards and the abatement was denied by the Landmark Commission.

As early as the 1981 Austin Historic Preservation Plan, the generosity of these potentially perpetual abatements were called to question. This plan, which is still in effect, noted that the perpetually eligible abatement structure was limiting the number of landmarks designated each year, particularly in lean economic times. It is PreserveAustin's opinion that this one element is also responsible for the complete lack of local historic districts in Austin. If a local historic district were created under the current code, all properties in that district would receive an H-overlay, making them eligible for the tax abatement (§25-2-355 and §5-5-21). This potential loss of tax revenue is unreasonable, so no local historic districts have

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been created.

Austin Landmarks: An economic impact study is needed to determine if Austin is receiving a positive return on investment for this program. The analysis should include property improvement reinvestment, tourism and movie industry revenues, property value increases/decreases relative to adjacent non-designated properties, and tax revenue loss. In the interim, PreserveAustin recommends moderate reductions in this program in accordance with staff recommendations.

Local Historic Districts: Owners of contributing buildings to a Local Historic District that re-invest 25% of their improvements value in qualified rehabilitation or restoration expenditures on the historic building are eligible for a 10 year tax freeze at the pre-rehabilitation value of land and improvements. Exterior rehabilitation/restoration costs must comprise a minimum of 10% of the total project cost.

Endangered Historic Areas and Properties: Many other cities in Texas and around the country offer additional benefits to low-income neighborhoods and property owners to reduce the impacts of gentrification common in historic neighborhoods. The community history embodied in long-term property owners is part of what defines the character of a district. Many of these owners are elderly, on fixed incomes or live at or below the poverty level. According to national studies, buildings that are designated as local landmarks or contributing to a historic district typically increase in value. Many low- to moderate-income central Austin property owners struggle to stay in their homes despite the increasing property values and consequent taxes. Historic Districts tend to increase property values further, making it even more challenging to preserve the history of a community as reflected in its occupants. Towards that goal, Preserve Austin supports several of the recommendations of the Gentrification Task Force and HLTF Minority Report, including the following:

- Creation of Historic District Endangered status for districts where the majority of residents are at or below 80% of the median family income or where 25% or more of the properties within the district are vacant lots or lots with vacant structures. Properties in this district that are over 50 years old would be eligible for a 20% annual tax exemption or \$200 annually, whichever is greater, for 10 years following designation.
- Provide a property tax incentive of 100% abatement for 10 years for owners of contributing buildings who substantially rehabilitate the building to provide rental units at affordable rates as determined by the HUD sliding scale.

Other Financial Incentives: Pursue and promote federal and private economic incentives such as the transfer of development rights (particularly appropriate for areas such as Rainey Street and the University-area neighborhoods), 20% Federal Rehabilitation Tax Credit for commercial properties, private easements, rehabilitation grant and loan programs, and other incentives that do not adversely affect city tax revenue.

For questions or more information regarding membership in PreserveAustin, please contact:

Tere O'Connell, Preservation Architect
tereconnell@preserveaustin.org
474-5687

751-1374

Thank you for your interest in the historic resources of Austin.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTERS 2-1, 11-1, 25-2, 25-3, 25-6, 25-10, AND 25-11 OF THE CITY CODE RELATING TO THE HISTORIC LANDMARK COMMISSION, AD VALOREM TAX EXEMPTIONS AND ABATEMENTS, HISTORIC LANDMARKS AND HISTORIC AREA COMBINING DISTRICTS, HISTORIC SIGN DISTRICTS, AND BUILDING, DEMOLITION, AND RELOCATION PERMITS; AND REPEALING SECTIONS 2-1-292 AND 2-1-295 OF THE CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 2-1-291 of the City Code are amended to read:

§ 2-1-291 CREATION AND MEMBERSHIP.

(A) The Historic Landmark Commission is created.

(B) The Historic Landmark Commission is composed of nine [11] members appointed by the council.

(C) This section prescribes Historic Landmark Commission membership composition and qualifications.

(1) The commission shall represent the general ethnic makeup of the community.

(2) The commission shall include a Heritage Society of Austin board member and an architect registered in the State of Texas. [at least one representative from each of the following organizations or successor organizations:

~~(a) the Heritage Society of Austin, Inc.;~~

~~(b) the School of Architecture of the University of Texas at Austin;~~

~~(c) the Austin Chapter of the American Institute of Architects;~~

~~(d) the Travis County Historical Commission; and~~

~~(e) the Travis County Bar Association.]~~

(3) Council may consider appointing as members:

(a) a person who meets the Secretary of the Interior's professional standards for expertise in "history" or "architectural history" as described in Code of Federal Regulations Title 36, Chapter I, Part 61 (Procedures For State, Tribal, And Local Government Historic Preservation Programs);

(b) an attorney licensed by the State of Texas;

(c) a real estate professional;

(d) a structural engineer;

(e) the owner of a residential historic landmark; and

(f) the owner of a commercial historic landmark.

~~[(3) If available to serve, at least one member must be a real estate professional and at least one member must be a professional historian.]~~

(4) Representatives of a single business or professional interest may not constitute a majority of the membership of the commission.

(5) Members must have:

(a) knowledge of and experience in the architectural, archaeological, cultural, social, economic, ethnic, or political history of the City; and

(b) a demonstrated interest or competence in or knowledge of historic preservation.

(D) Members serve for a term of two years. A member may not serve more than four terms.

(E) After a member's term expires, the member shall serve until reappointed or replaced by the council. A person appointed to fill an unexpired term shall serve for the remainder of the term.

PART 2. Section 11-1-22 of the City Code is amended to read:

§ 11-1-22 DETERMINATION OF EXEMPTION AMOUNT.

(A) The following percentage of the assessed value of a property designated "H"

Historic and approved for tax exemption shall be exempt from ad valorem taxes levied by the city:

(1) subject to the limitation of Subsection (B), 100 percent of the assessed value of the historic structure and 50 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure for:

(a) an owner-occupied historic residential property that is not fully or partially leased to another person; and

(b) a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act; and [-]

(2) 50 percent of the assessed value of the historic structure and 25 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure for any other historic property, including property used for a commercial purpose.

(B) An exemption under Paragraph (A)(1) may not exceed the greater of \$2,000 or 50 percent of the ad valorem tax that the City would otherwise levy on the property.

PART 3. Chapter 11-1 of the City Code is amended to add a new Article 3 to read:

ARTICLE 3. HISTORIC AREA DISTRICT TAX ABATEMENT PROGRAMS.

Division 1. General Provisions.

§ 11-1-51 AUTHORITY; APPLICABILITY; EXEMPTION APPLICATION.

(A) The tax abatements contained in this article are adopted under the authority provided in Article 8, Section 1-f (*Ad Valorem Tax Relief*) of the Texas Constitution and Section 11.24 (*Historic Sites*) of the Texas Tax Code.

(B) These abatements apply only to city property taxes and not to taxes owing to other taxing units.

(C) Nothing in this division relieves a person from the responsibility to apply each year to the appraisal district for an exemption in accordance with the Texas Tax Code.

§ 11-1-52 DEFINITIONS.

In this article:

- (1) ABATEMENT means a tax abatement, as described in this article.
- (2) APPRAISAL DISTRICT means the Travis Central Appraisal District or its successor.
- (3) COMMITMENT TO REPAY means a legal instrument requiring the owner of historic property granted an abatement or historic conservation easement to repay to the City all prior taxes abated upon a finding that the historic property has been totally or partially destroyed or significantly altered by the willful act or negligence of the owner or the owner's agent in violation of this code.
- (4) DIRECTOR means the director of the Neighborhood Planning and Zoning Department.
- (5) HISTORIC DISTRICT means a historic area (HD) combining district created in accordance with Chapter 25-2 (*Zoning*).
- (6) LANDMARK COMMISSION means the City's Historic Landmark Commission.
- (7) PRE-RESTORATION VALUE means the most recent appraisal of the value of property by the appraisal district before an application is submitted for an abatement. If, while a property is eligible for an abatement, the appraisal district reappraises the property and the value is reduced, the pre-restoration value equals the value after reappraisal for the remaining duration of the abatement.
- (8) RESTORATION means work performed in accordance with the requirements of this article and Title 25 (*Land Development*).
- (9) VALUE means the most recent appraisal of the value of an historic property by the appraisal district. If, while a historic property is receiving an abatement, the appraisal district reappraises the historic property and the value is reduced, the value equals the value after reappraisal for the remaining duration of the abatement.

Division 2. Abatement Process.

§ 11-1-61 APPLICATION FOR ABATEMENT.

(A) An applicant must file an application for an abatement with the director.

(B) An application must be signed by the owner of the property, be acknowledged before a notary public, and include:

- (1) the legal description of the property;
- (2) construction plans for the proposed work showing how the exterior and interior of the property is to be restored, including descriptions of the materials;
- (3) proof of compliance with the historic area (HA) combining district preservation plan;
- (4) estimates of the costs for the restoration of the exterior and interior of the property;
- (5) a proforma and a development budget, if an estimated abatement is over \$100,000;
- (6) a projection of the construction time and completion date;
- (7) a complete application for a certificate of appropriateness, if required;
- (8) the proposed use of the property;
- (9) a draft commitment to repay on a form provided by the City;
- (10) an authorization for inspection of the property by members of the Landmark Commission and City staff;
- (11) the duration of any previous property tax relief granted to any portion of the property under to this article or any other ordinance adopted in accordance with Section 11.24 (*Historic Sites*) of the Texas Tax Code;
- (12) proof, including a tax certificate, that no property taxes or City fees, fines, or penalties are delinquent on the property;
- (13) an affidavit stating that all property taxes are current and that no city fees, fines, or penalties are owed on property owned by a business association in which the applicant has an ownership interest;
- (14) a description of City Code violations, if any, on the property within

the previous five years;

(15) a letter of intent from a financial institution or potential investors;
and

(16) any other information the director determines is necessary to demonstrate eligibility, including information showing compliance with all applicable City health and safety regulations.

§ 11-1-62 DETERMINATION OF ELIGIBILITY.

(A) The Landmark Commission shall determine whether a property is eligible for an abatement, subject to appeal to the Planning Commission.

(B) After receipt of a complete application for an abatement, the director shall schedule a hearing on eligibility before the Landmark Commission.

(C) The director shall schedule an application for a certificate of appropriateness, if required, to be heard by the Landmark Commission at the same time as the determination of eligibility.

§ 11-1-63 CRITERIA FOR ELIGIBILITY.

The Landmark Commission shall issue a certificate of eligibility designating the property as in need of tax relief to encourage its preservation only if the application satisfies the following requirements:

(1) The restoration must comply with the historic area (HD) combining district preservation plan.

(2) The cost of restoration must exceed the percentage of pre-restoration value specified in the applicable section of Division 3 (*Abatement Programs*).

(3) Only restoration done after issuance of the certificate of eligibility is included in determining whether the proposed restoration exceeds the specified percentage of pre-restoration value.

(4) Only restoration involving work for which a certificate of appropriateness or City permit is required is included in determining whether the proposed work exceeds the specified percentage of pre-restoration value.

(5) The applicant obtains a certificate of appropriateness, if required.

§ 11-1-64 NOTICE OF DENIAL; APPEAL.

(A) If the Landmark Commission determines that an applicant is not eligible for an abatement, the director shall notify the applicant in writing by United States mail sent to the address shown on the application.

(B) An applicant may appeal the Landmark Commission's decision to the Planning Commission. To appeal, the applicant must file a written request with the director not later than the 31st day after the date written notice of the decision is given to the applicant.

(C) On appeal, the Planning Commission shall consider only whether the Landmark Commission erred in its determination that the applicant is not eligible for the abatement under Section 11-1-63 (*Criteria For Eligibility*).

§ 11-1-65 COUNCIL REVIEW OF ABATEMENTS THAT EXCEED \$50,000.

(A) The director shall schedule an application for an abatement that exceeds \$50,000 for review by the city council not later than the 90th day after a certificate of eligibility is granted.

(B) The city council may, by resolution, approve or deny any portion of an application over \$50,000.

§ 11-1-66 COMPLETION OF RESTORATION.

(A) Except as provided in Subsection (B), all restoration must be completed and a certificate of occupancy must be obtained for the property within two years after the date of the certificate of eligibility.

(B) The deadline for completion of restoration may be extended by the Landmark Commission for additional periods of up to one year each.

(C) The certificate of eligibility expires automatically if restoration is not completed within the period prescribed by this section.

§ 11-1-67 LETTER OF VERIFICATION.

(A) To receive an abatement after restoration is completed, an owner must apply to the director for a letter of verification and submit to the director:

(1) the certificate of eligibility;

(2) a signed statement, acknowledged before a notary public, certifying that the restoration has been completed in compliance with any

certificates of appropriateness or preliminary certificates of appropriateness along with receipts or other documentation proving that the required restoration has actually been done;

(3) an executed commitment to repay that:

(a) is approved as to form by the city attorney;

(b) provides that any unpaid repayment is a lien against the property;

(c) indemnifies the City against all claims arising out of the granting of an abatement;

(d) binds the owner and his successors, heirs, and assigns;

(e) runs with the land; and

(f) is filed in deed records of the appropriate county;

(4) a copy of the city council resolution if the abatement exceeds \$50,000; and

(5) a certificate of occupancy, if applicable.

§ 11-1-68 REVIEW BY DIRECTOR; CRITERIA.

(A) The director shall inspect the property to verify compliance with the requirements of this article.

(B) The director shall issue a letter of verification only if no property taxes or City fees, fines, or penalties are delinquent on the property, and the property complies with all applicable City Code provisions.

§ 11-1-69 DIRECTOR'S DECISION.

(A) If the director determines that an applicant meets all applicable requirements and qualifies for an abatement, the director shall send a letter of verification to the appraisal district and the applicant, indicating the applicable abatement and the value and duration of the abatement.

(B) The director shall provide subsequent letters of verification to the appraisal district on an annual basis for the duration of the abatement.

§ 11-1-70 NOTICE OF DENIAL; APPEAL.

(A) If the director determines that the applicant is not eligible for an abatement, the director shall notify the applicant in writing by United States mail sent to the address shown on the application.

(B) An applicant may appeal the director's decision to the Planning Commission. To appeal, the applicant must file a written request with the director not later than the 31st day after the date written notice of the decision is given to the applicant.

(C) On appeal, the Planning Commission shall consider only whether the director erred in determining that the applicant is not eligible for the abatement under Section 11-1-68 (*Review By Director; Criteria*).

Division 3. Abatement Programs.

§ 11-1-81 RESIDENTIAL ABATEMENT PROGRAM.

(A) An abatement under this section may be granted only once within a 10 year period for the same property.

(B) To be eligible for an abatement:

- (1) a property must be owner-occupied;
- (2) the cost of restoration that is completed must be at least 25 percent of the pre-restoration value, excluding the value of the land;
- (3) at least five percent of the pre-restoration value must be spent on improvements to the exterior of the property; and
- (4) the improvements must comply with the historic area (HD) combining district preservation plan.

(C) An abatement under this section is equal to the taxes assessed on the added value of the property over the pre-restoration value.

(D) An abatement begins the first day of the first tax year after verification and has a duration of seven years.

§ 11-1-82 COMMERCIAL ABATEMENT PROGRAM.

(A) An abatement under this section may be granted only once within a 15 year period for the same property.

(B) To be eligible for an abatement:

- (1) a property must be an income-producing property;
- (2) the cost of restoration that is completed must be at least 40 percent of the pre-restoration value, excluding the value of the land;
- (3) at least five percent of the pre-restoration value must be spent on improvements to the exterior of the property; and
- (4) the improvements must comply with the historic area (HD) combining district preservation plan.

(C) An abatement under this section is equal to the taxes assessed on the added value of the property over the pre-restoration value.

(D) An abatement begins the first day of the first tax year after verification and has a duration of ten years.

PART 4. Sections 25-1-21(49) and (50) of the City Code are amended to read:

(49) HISTORIC DISTRICT means an area included in a historic area (HD) combining district.

(50) HISTORIC LANDMARK means a structure or site [area] designated as a historic landmark (H) combining district.

PART 5. Section 25-2-32(F) of the City Code is amended to add a new combining district and map code to read as follows and renumber the remaining combining districts and map codes accordingly:

(2) historic area HD

PART 6. Section 25-2-171 of the City Code is amended to read:

§ 25-2-171 HISTORIC LANDMARK (H) COMBINING DISTRICT AND HISTORIC AREA (HD) COMBINING DISTRICT PURPOSES [PURPOSE].

(A) The purpose of a historic landmark (H) combining district is to protect, enhance, and preserve individual structures[;] or sites[; or areas] that are of architectural, historical, archaeological, or cultural significance.

(B) The purpose of a historic area (HD) combining district is to protect, enhance, and preserve areas that include structures or sites that are of architectural, historical, archaeological, or cultural significance.

PART 7. Section 25-2-242 of the City Code is amended to read:

§ 25-2-242 INITIATION OF ZONING OR REZONING.

Zoning or rezoning of property may be initiated by the:

- (1) Council;
- (2) Land Use Commission;
- (3) record owner; ~~or~~
- (4) Historic Landmark Commission, if the property is, or is proposed to be, designated as a historic landmark (H) combining district or ~~in~~ a historic area (HD) combining district; or
- (5) for a proposed historic area (HD) combining district, petition of the owners of at least 50 percent of the land in the proposed district.

PART 8. Chapter 25-2, Subchapter B, Article 2, Division 3 of the City Code is repealed and replaced by a new Division 3 to read:

Division 3. Historic Landmarks And Historic Area Districts.

§ 25-2-351 CONTRIBUTING STRUCTURE DEFINED.

In this division, CONTRIBUTING STRUCTURE means a structure that contributes to the historic character of a historic area (HD) combining district, was built during the period of significance for the district, and which retains its appearance from that time. An altered structure may be considered a contributing structure if the alterations are minor and the structure retains its historic appearance and contributes to the overall visual and historic integrity of the district. A structure is designated as a contributing structure by the ordinance establishing the historic area (HD) combining district.

§ 25-2-352 HISTORIC DESIGNATION CRITERIA.

(A) The council may designate a structure or site as a historic landmark (H) combining district if:

- (1) the property is at least 50 years old, unless the property is of exceptional importance as defined by National Register Bulletin 22, National Park Service (1996);
- (2) the property retains sufficient integrity of materials and design to convey its historic appearance; and

(3) the property:

(a) is individually listed in the National Register of Historic Places; or is designated as a Texas Historic Landmark, State Archeological Landmark, or National Historic Landmark; or

(b) meets the criteria prescribed by at least two of the following clauses:

(i) the property embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction; represents technological innovation in design or construction; contains features representing ethnic or folk art, architecture, or construction; represents the significant work of a noted architect, builder or artisan; represents a rare example of an architectural style; or bears a physical or contextual relation to other historically or architecturally significant structures or areas;

(ii) the property is substantially associated with persons, groups, institutions, businesses, or events of historical significance which contributed to the social, cultural, economic, development, or political history of the city, state, or nation; or the property is representative of a culture or group of people in a historical era through its architecture, method of construction, or use;

(iii) the property possesses archeological significance because it has, or is expected to, yield significant data concerning the human history or prehistory of the region;

(iv) the property possesses value to the community because it significantly represents the cultural, economic, social, ethnic, artistic, or historical heritage of the city or an area of the city; or because it has a location, physical characteristics, or other unique features which greatly contribute to the character or image of the city, a neighborhood, or a population group; or

(v) the property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.

(B) The council may designate an area as a historic area (HD) combining

district if at least 51 percent of the principal structures within the proposed district are contributing structures.

(C) The council may enlarge the boundary of an existing historic area (HD) combining district if the additional structure, group of structures, or area adds historic, archeological, or cultural value to the district.

(D) The council may reduce the boundary of an existing historic area (HD) combining district if:

- (1) the structure to be excluded does not contribute to the historic character of the district;
- (2) excluding the structure or area is necessary for major new development which will support the architectural, historical, archeological, or cultural character or economic viability of the district;
- (3) excluding the structure or area will not cause physical, historical, architectural, archeological, or cultural degradation of the district; or
- (4) a reasonable use of the structure that allows the exterior to remain in its original style does not exist.

§ 25-2-353 APPLICATION REQUIREMENTS.

(A) An application to designate a structure or site as a historic landmark (H) combining district or an area as a historic area (HD) combining district must demonstrate that the structure, site, or area satisfies the criteria for designation and include the information required by administrative rule.

(B) An application for a historic area (HD) combining district must include an inventory of the principal structures included in the proposed district and an evaluation of whether each structure qualifies as a contributing structure. An evaluation under this subsection must be made by a person who meets the Secretary of the Interior's professional standards for expertise in "history" or "architectural history" as described in Code of Federal Regulations Title 36, Chapter I, Part 61 (*Procedures For State, Tribal, And Local Government Historic Preservation Programs*).

§ 25-2-354 HISTORIC LANDMARK COMMISSION PUBLIC HEARING REQUIREMENT.

(A) The Historic Landmark Commission shall hold a public hearing on a zoning or rezoning application that requests:

(1) designation of a historic landmark (H) or historic area (HD) combining district; or

(2) an amendment or removal of a historic landmark (H) or historic area (HD) combining district designation.

(B) The director of the Neighborhood Planning and Zoning Department shall give notice of the public hearing under Section 25-1-132(A) (*Notice Of Public Hearing*). The Director of the Neighborhood Planning and Zoning Department shall also provide notice of the public hearing by posting signs on the property.

(C) The Historic Landmark Commission shall make a recommendation to the Land Use Commission on a zoning or rezoning application governed by this section not later than the 14th day after the Historic Landmark Commission closes the public hearing on the application.

(D) The director of the Neighborhood Planning and Zoning Department shall forward the recommendation of the Historic Landmark Commission to the Land Use Commission and council.

§ 25-2-355 HISTORIC LANDMARK COMMISSION REVIEW.

(A) The Historic Landmark Commission shall consider the criteria established in Section 25-2-352 (*Historic Designation Criteria*) when reviewing an application for a historic landmark (H) or historic area (HD) combining district.

(B) If the Historic Landmark Commission recommends designation of a historic landmark (H) or historic area (HD) combining district, it shall send a recommendation to the Land Use Commission and the council that includes:

(1) a statement of the reasons for recommending designation of the district;

(2) a legal description of the boundary of the district;

(3) maps, charts, and photographs of the structures, sites, or areas located in the district;

(4) findings that support the criteria for designating the district and that establish the importance of the district; and

(5) for a historic area (HD) combining district, a historic area district preservation plan and list of designated contributing structures as

described in Section 25-2-356 (*Historic Area District Ordinance And Preservation Plan Requirement*).

§ 25-2-356 HISTORIC AREA DISTRICT ORDINANCE AND PRESERVATION PLAN REQUIREMENT.

(A) An ordinance zoning or rezoning property as a historic area (HD) combining district must:

- (1) describe the character-defining features of the district;
- (2) include a plan to preserve those features; and
- (3) list the designated contributing structures.

(B) A preservation plan may:

- (1) modify regulations relating to building setbacks, building height, compatibility, landscaping, parking, or signs; or
- (2) prescribe regulations relating to design, scale, or architectural character of, or materials for:
 - (a) the exterior of a contributing structure or a new structure; or
 - (b) public facilities, including street lighting, street furniture, signs, landscaping, utility facilities, sidewalks, and streets.

§ 25-2-357 DESIGNATION ON ZONING MAP.

The director of the Neighborhood Planning and Zoning Department shall add as a suffix to the base district designation on the zoning map:

- (1) the letter "H" to reflect a historic landmark designation; or
- (2) the letters "HD" to reflect a historic area designation.

§ 25-2-358 NOTICE OF DESIGNATION TO TAX APPRAISAL DISTRICT.

(A) The city clerk shall file with the county tax appraisal district a:

- (1) copy of an ordinance zoning property as a historic landmark or historic area combining district; and
- (2) notice stating that the council has granted the historic designation.

(B) The city clerk shall mail a copy of the notice described in Subsection (A)(2) to the notice owner by certified mail.

§ 25-2-359 MEDALLIONS.

With the approval of the owner, a person may place a medallion approved by the Historic Landmark Commission on a structure or site that is designated as a historic landmark.

PART 9. Sections 25-2-374(B) and (G) of the City Code are amended to read:

(B) Before the Land Use Commission may hold a hearing, the Historic Landmark Commission must hold a public hearing if the proposed NC combining district contains:

- (1) a designated historic landmark or historic district; or
- (2) except as provided in Subsections (F) and (G), a structure with historic significance, as determined by the Cultural and Historic Resources Survey of the City of Austin.

(G) If a waiver is granted under Subsection (F):

- (1) a hearing at the Historic Landmark Commission on a proposed NC combining district is required only if the district includes a designated historic landmark or historic district; and
- (2) an NC combining district, if established, may include only the property to be restricted to civic uses.

PART 10. Section 25-2-594(B) of the City Code is amended to read:

(B) This section does not apply to a site plan for:

- (1) property zoned as a historic landmark (H) or historic area (HD) combining district;
- (2) property designated as a historic landmark by the state or federal government;
- (3) ~~property located in a National Register Historic District [national register historic district]~~ established by the federal government;
- (4) remodeling of or addition to an existing structure;

(5) restoration of a damaged structure within one year of the date of damage;

(6) a change of use;

(7) property located in the area bounded by Seventh Street from San Antonio Street to Shoal Creek, Shoal Creek from Seventh Street to Fifteenth Street, Fifteenth Street from Shoal Creek to West Avenue, West Avenue from Fifteenth Street to Martin Luther King, Jr. Boulevard, Martin Luther King, Jr. Boulevard from West Avenue to San Antonio Street, San Antonio Street from Martin Luther King, Jr. Boulevard to Eleventh Street, Eleventh Street from San Antonio Street to Guadalupe Street, Guadalupe Street from Eleventh Street to Tenth Street, Tenth Street from Guadalupe Street to San Antonio Street, and San Antonio Street from Tenth Street to Seventh Street; or

(8) the following uses:

- (a) carriage stable;
- (b) family home;
- (c) group home;
- (d) local utility services;
- (e) major utility facilities;
- (f) outdoor entertainment;
- (g) outdoor sports and recreation;
- (h) park and recreation services;
- (i) religious assembly;
- (j) safety services;
- (k) transitional housing; or
- (l) transportation terminal.

PART 11. Section 25-2-807(A) of the City Code is amended to read:

(A) This section applies to a site if:

(1) the structure and land are zoned as a historic landmark (H) or historic area (HD) combining district;

(2) the property is owned and operated by a non-profit entity;

(3) the property is directly accessible from a street with at least 40 feet of paving;

(4) the site has at least one acre of contiguous land area;

(5) at least 80 percent of the required parking is on site;

(6) a single commercial use does not occupy more than 25 percent of the gross floor area;

(7) civic uses occupy at least 50 percent of the gross floor area; and

(8) the property owner does not discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, age, or physical disability in leasing the property.

PART 12. Section 25-2-839(F) of the City Code is amended to read:

(E) A telecommunication tower described in Subsection (F) or (G) must comply with the requirements of this subsection.

(1) The tower may not be located;

(a) on or within 300 feet of property that is zoned as a historic landmark (H) or historic area (HD) combining district or included in a National Register District [~~or City Historic District~~];

(b) within 50 feet of a day care services (commercial) use; or

(c) within 50 feet of a dwelling unit.

(2) The tower must be of monopole construction and designed to accommodate at least two antenna array.

(3) The antenna array may not exceed tower height by more than 10 feet.

(4) Guys and guy anchors must be at least 20 feet from adjoining property.

(5) The tower must be:

(a) enclosed by security fencing; and

(b) screened from street view by landscaping at least six feet high.

(6) The tower must be identified by a sign visible from outside the screening. The sign must state in letters at least two inches high the name and telephone number of the tower manager and the Federal Communications Commission license number.

PART 13. Section 25-2-981(B) of the City Code is amended to read:

(B) This article does not apply to:

(1) property zoned central business district or downtown mixed use district;

(2) a lot containing one single-family residence;

(3) a lot containing one duplex residence, unless the residence exceeds 4,000 square feet of gross floor area or has more than six bedrooms;

(4) a two-family residential use;

(5) a secondary apartment special use;

(6) substantial restoration of a building within one year after the building is damaged;

(7) restoration of a building [with] designated as a historic landmark [designation]; or

(8) interior or facade remodeling, if the front and side exterior walls of the building remain in the same location.

PART 14. Section 25-2-1052(A) of the City Code is amended to read:

(A) This article does not apply to:

(1) construction for a residential use permitted in an urban family residence (SF-5) or more restrictive zoning district;

(2) property in a historic landmark (H) or historic area (HD) combining district;

(3) a structural alteration that does not increase the square footage, area, or height of a building; or

- (4) a change of use that does not increase the amount of required off-street parking.

PART 15. Section 25-3-192(C) of the City Code is amended to read:

(C) A plot plan must be submitted with the building or construction permit application. A building or construction permit may not be issued unless a plot plan complies with this chapter and Title 25 (Land Development) [~~the Land Development Code~~]. A plot plan must provide the following information, if applicable:

- (1) all information required by Chapter 25-11 (*Building, Demolition, And Relocation Permits; Special Requirements For Historic Structures [Landmarks]*) or 25-12 (*Technical Codes*) to be on a plot plan;
- (2) locations and types of easements;
- (3) the locations of proposed utility connections;
- (4) the 100 year floodplain, as calculated to exist under fully developed conditions in accordance with the Drainage Criteria Manual;
- (5) building location and gross building square footage;
- (6) proposed use that complies with the Land Use Allocation Map;
- (7) number of bedrooms;
- (8) locations, quantity, and dimensions of sidewalks, pedestrian ramps, driveways, parking areas, parking spaces, and off-street loading areas;
- (9) information that shows compliance with accessibility requirements;
- (10) landscaping, screening, and fencing;
- (11) locations of protected trees, significant tree clusters, and 8-inch survey trees;
- (12) an erosion and sedimentation control plan;
- (13) lot size, setbacks, building height, building coverage, and impervious coverage; and
- (14) other information that may be required by administrative rules.

PART 16. Section 25-6-593(B) of the City Code is amended to read:

- (B) A person must provide at least 50 percent of the parking spaces required by Appendix A (*Tables Of Off-Street Parking And Loading Requirements*) for a use occupying a historic landmark [~~structure~~] or located in a historic district.

PART 17. Section 25-10-122 of the City Code is amended to read:

§ 25-10-122 HISTORIC LANDMARK COMMISSION REVIEW.

- (A) If a person files an application for a sign permit in the historic sign district, the building official shall~~[-]~~ immediately notify the historic preservation officer.
- (B) The historic preservation officer shall review the application and determine whether it complies with the historic sign district guidelines described in Subsection (F), if any. If the application complies with the guidelines, the historic preservation officer shall approve the application. Otherwise, the historic preservation officer shall:
- (1) immediately notify the presiding officer of the Historic Landmark Commission of the application; and
 - (2) give at least 10 days' written notice to the applicant and land owner of the date, time, and place of the meeting at which the Landmark Commission will consider the application.
- (C) [~~B~~] The applicant or land owner may waive the 10 day notice of the hearing.
- (D) [~~C~~] In reviewing a sign permit application, the Historic Landmark Commission shall consider:
- (1) the proposed size, color, and lighting of the sign;
 - (2) the material from which the sign is to be constructed;
 - (3) the proliferation of signs on a building or lot;
 - (4) the proposed orientation of the sign with respect to structures; and
 - (5) other factors that are consistent with the Historic Landmark Preservation Plan, the character of the National Register District, and the purpose of historic landmark regulations.
- (E) [~~D~~] The Historic Landmark Commission shall approve a sign permit application if it determines that the proposed sign:
- (1) will not adversely affect a significant architectural or historical feature

of the historic sign district; and

- (2) as applicable, is consistent with the Historic Landmark Preservation Plan, the character of the National Register District, and the purpose of the historic landmark regulations.

(F) The Historic Landmark Commission may adopt historic sign district guidelines that describe typical signs that comply with the criteria prescribed by Subsections (D) and (E).

(G) ~~(E)~~ If the Historic Landmark Commission does not review a sign permit application by the 40th day after the date the application is filed, the application is considered approved by the Historic Landmark Commission.

(H) ~~(F)~~ The applicant or land owner may appeal a decision of the Historic Landmark Commission under this section to the City Council in accordance with Chapter 25-1, Article 7, Division 1 (*Appeals*).

PART 18. Chapter 25-11 of the City Code is renamed to read:

**CHAPTER 25-11. BUILDING, DEMOLITION, AND RELOCATION PERMITS;
SPECIAL REQUIREMENTS FOR HISTORIC STRUCTURES.**

PART 19. Chapter 25-11, Article 4 of the City Code is renamed to read:

ARTICLE 4. SPECIAL REQUIREMENTS FOR HISTORIC STRUCTURES.

PART 20. Chapter 25-11, Article 4, Division 1 is renamed to read:

Division 1. Historic Structures Generally.

PART 21. Section 25-11-211 of the City Code is amended to add the following new definitions to read:

- (3) **CONTRIBUTING STRUCTURE** means a structure that contributes to the historic character of a historic area (HD) combining district, was built during the period of significance for the district, which retains its appearance from that time, and is designated as a contributing structure by the ordinance establishing the historic area (HD) combining district.
- (4) **HISTORIC PRESERVATION OFFICER** means the person appointed by the city manager in accordance with Section 2-1-296(B) (*Staff Assistance; Historic Preservation Officer*).

PART 22. Section 25-11-212 of the City Code is amended to read:

§ 25-11-212 CERTIFICATE REQUIRED.

(A) Until a person obtains a certificate of appropriateness, demolition, or removal, as applicable, from the commission or the building official, the person may not:

(1) change, restore, remove, or demolish an exterior architectural or site feature of a designated historic landmark or a contributing structure; or

(2) change, restore, remove or demolish an exterior architectural or site feature of a structure for which a designation is pending under Section 25-11-213 (*Pendency Of Designation*).

(B) Except for a change to the exterior color of a historic landmark, the [The] prohibition of Subsection (A) does not apply if the historic preservation officer determines that a change or restoration:

(1) is [to] ordinary repair or maintenance that does not involve changes in architectural and historical value, style, or general design;

(2) is an accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site, unless a variance or waiver is requested; or

(3) does not change the appearance of the structure or site from an adjacent public street, and is limited to construction of:

(a) a ground-floor, one-story addition or outbuilding with less than 600 square feet of gross floor area; or

(b) a pool, deck, fence, back porch enclosure, or other minor feature.

(C) A criminal penalty for a violation of this section applies only to a person who has actual or constructive notice that:

(1) the structure is a designated historic landmark or contributing structure; or

(2) a designation is pending under Section 25-11-213 (*Pendency Of Designation*).

PART 23. Section 25-11-214 of the City Code is amended to read:

§ 25-11-214 BUILDING, REMOVAL, AND DEMOLITION PERMITS IN NATIONAL REGISTER DISTRICT OR APPROVED HISTORIC SURVEY.

(A) In this section "National Register Historic District [~~national register district~~]" means an area designated in the Federal Register under the National Preservation Act of 1966, as amended, for which maps depicting the area are available for inspection by the public at the Neighborhood Planning and Zoning Department.

(B) This section applies to a structure:

(1) located in a National Register Historic District; or

(2) listed in a professionally prepared survey of historic structures approved by the historic preservation officer.

~~[(2) listed in City of Austin Comprehensive Survey of Cultural Resources; or~~

~~(3) listed in East Austin, An Architectural Survey.~~

~~(C) This section does not apply to a geographical area designated as a historical district under Chapter 25-2 (Zoning).]~~

(C) ~~[(D)]~~ When the building official receives an application requesting a building permit, removal permit, or demolition permit for a structure to which this section applies, the building official shall immediately:

(1) post a sign on the site; and

(2) notify the commission.

(D) ~~[(E)]~~ The commission shall hold a public hearing on an application described in Subsection (C) ~~[(D)]~~ as soon as adjacent property owners are notified.

(E) ~~[(F)]~~ The building official may not issue a building permit, removal permit, or demolition permit for a structure to which this section applies until the earlier of:

(1) the date the commission makes a recommendation regarding the structure; or

(2) the expiration of 45 ~~[40]~~ days after the date the building official notifies the commission.

PART 24. Section 25-11-215 of the City Code is repealed and replaced with a new Section 25-11-215 to read:

§ 25-11-215 NOTICE TO HISTORIC PRESERVATION OFFICER REGARDING CERTAIN PERMITS AND SITE PLANS.

(A) The building official must notify the historic preservation officer before the building official may issue a permit to demolish or relocate a structure.

(B) The director of the Watershed Protection and Development Review Department must notify the historic preservation officer of the filing of a site plan that indicates the demolition or removal of a structure.

PART 25. Sections 25-11-216(A), (B), and (D) of the City Code are amended to read:

(A) The owner of a designated historic landmark or contributing structure shall maintain the exterior to ensure the structural soundness of the landmark or structure.

(B) If the Building Standards Commission or the commission determines that there are reasonable grounds to believe that a designated historic landmark or contributing structure is structurally unsound or in imminent danger of becoming structurally unsound, the Building Standards Commission or the commission shall notify in writing the record owner of the determination.

(D) After the public hearing:

(1) if the Building Standards Commission determines that the designated historic landmark or contributing structure is structurally unsound or in danger of becoming structurally unsound and that there is not a valid reason why the owner cannot or should not safeguard the structural soundness of the building, the Building Standards Commission shall notify the record owner of the determination in writing; or

(2) if the Building Standards Commission determines that the designated historic landmark or contributing structure is structurally unsound or in danger of becoming structurally unsound and that there are valid reasons why the owner cannot or should not safeguard the structural soundness of the building: [;]

(a) the Building and Standards Commission [#] shall send to the council its recommendation and the commission's recommendation regarding what action, if any, should be taken on the structure; and

(b) the council shall determine what action, if any, should be taken on the structure.

PART 26. Section 25-11-241 of the City Code is amended to read:

§ 25-11-241 APPLICATION FOR CERTIFICATE.

(A) This subsection applies to an application for a certificate of appropriateness if a building permit for the exterior of a designated historic landmark or contributing structure is required.

(1) An applicant must submit a written application for a building permit to the building official that includes two copies of each plan and other document pertaining to the work.

(2) The building official shall provide a copy of the application to the historic preservation officer [~~chair of the commission~~] not later than the fifth day after the day that the building official receives the application from the applicant.

(B) This subsection applies to an application for a certificate of appropriateness if a building permit for the exterior of a designated historic landmark or contributing structure is not required.

(1) An applicant must submit a written application for a certificate to the historic preservation officer [~~chair of the commission~~].

(2) The application must include a description of each proposed change to the landmark or structure.

(C) This subsection applies to an application for a certificate of demolition or certificate of removal for a designated historic landmark or contributing structure.

(1) An applicant must submit a written application for a demolition or relocation permit to the building official.

(2) The building official shall immediately provide a copy of the application to the historic preservation officer [~~chair of the commission~~].

(D) After the historic preservation officer receives an application from the building official, the historic preservation officer shall review the application and on or before the fifth day:

(1) approve the application under Section 25-11-212(B) (Certificate Required); or

(2) forward the application to the chair of the commission.

PART 27. Section 25-11-242(B) of the City Code is amended to read:

(B) When the chair of the commission receives an application under Section 25-11-241(C) (*Application For Certificate*), the commission shall hold a public hearing on the application not later than the 45th [~~30th~~] day after the day the application is filed with the building official.

PART 28. Sections 2-1-292 and 2-1-295 of the City Code are repealed and the remaining subsections renumbered accordingly.

PART 29. This ordinance takes effect on _____, 2004.

PASSED AND APPROVED

_____, 2004 §
 §
 § _____
 Will Wynn
 Mayor

APPROVED: _____
 David Allan Smith
 City Attorney

ATTEST: _____
 Shirley A. Brown
 City Clerk



Proposed Historic Preservation Ordinance Amendments

Proposals from staff to amend regulations related to historic preservation in the City of Austin.

**Proposal I:
Revise Local Historic District Ordinance**

**Proposal II:
Revise Historic Landmark Designation Criteria**

**Proposal III:
Streamline & Clean-Up Permit Process**

**Proposal IV:
Create Alternative to Historic Zoning for Owner-Opposed Cases**

**Proposal V:
Revise Financial Incentives and Penalties**

Appendices (available upon request)

- A:** Current City of Austin historic preservation-related ordinances.
(http://www.amlegal.com/austin_tx/)
- B:** Historic preservation-related ordinances from other major Texas cities
- C:** Listing of National Register Historic Districts in Austin.
- D:** March 13, 2003 Report from the Staff Task Force on Gentrification in East Austin
- E:** March 2004 Historic Preservation Task Force Report





Proposed Historic Preservation Ordinance Amendments
City of Austin, Revised June 2, 2004

Revise Local Historic District Ordinance

Currently in the Land Development Code, the Historic Combining District ("H") allows for the creation of a local historic district, however to date the use of the "H" district has been limited to designating individual historic landmarks. The table below shows the differences and similarities between the current code provisions allowing for the creation of a local historic district and the staff recommended creation of a Historic District "HD" ordinance.

Current Code	Staff Recommended Changes
<p>DEFINITIONS</p> <p>From LDC section 25-1-21:</p> <p>Historic District - an area included in a historic combining district.</p> <p>Historic Landmark - a structure or area included in a historic combining district.</p> <p>The Historic "H" Combining District purpose is to protect, enhance, and preserve structures, sites or areas that are of architectural, historical, archaeological, or cultural significance</p>	<p>Historic Landmark- same as current definition.</p> <p>Historic "H" Combining District- purpose is to protect, enhance, and preserve structures and sites (historic landmarks) that are of architectural, historical, archaeological, or cultural significance.</p> <p>Historic District "HD" Combining/Overlay District- a significant group of structures or sites related by geographical location, history, or architecture, and in which at least half of the principal buildings in the district contribute to its historic character.</p>
<p>HISTORIC DISTRICT "HD" COMBINING DISTRICT</p> <p>Initiation:</p> <p>Currently there is not a separate "HD" designation. Historic districts are designated under the "H" combining district, and initiated by:</p> <ul style="list-style-type: none"> • City Council, Historic Landmark Commission or Land Use Commission • Property owners within district 	<p>A "H" and "HD" district may be combined with any base district.</p> <p>A Historic District (HD) designation may be initiated by:</p> <ul style="list-style-type: none"> • City Council or Historic Landmark Commission (and not the Land Use Commission) • A petition endorsed by at least 50% of the property owners in the proposed historic district. • City staff if recommended in adopted neighborhood plan <p>Remains the same.</p>
<p>Notifications and Public Hearings:</p> <p>Notice sent for Historic Landmark Commission, Planning Commission and City Council public hearings.</p> <p>Designation Criteria:</p> <p>For an area to qualify as a historic district, at least 51 percent of the structures in the area must meet the local historic designation criteria for historic landmarks (LDC Section 25-2-351).</p>	<p>For an area to qualify as a Historic District, 51% of the buildings and structures in a group must contribute to the district and the area must be formally determined eligible for listing in the National Register of Historic Places by the Texas Historical Commission.</p>

Current Code	Staff Recommended Changes
	<p><i>Historic District</i> eligibility will be evaluated based on National Register criteria for historic district designation.</p> <p>All contributing properties must be listed in the ordinance zoning or rezoning the properties to HD. The nomination to the Texas Historical Commission must be professionally prepared, and must contain an inventory of all the buildings, structures, and sites proposed for inclusion in the district along with an evaluation of whether each property contributes to the historic district. The nomination must include a historic context report of the district, justifying its designation, information about the principal contributing properties, maps, and photographs of each property in the district.</p> <p>Remains the same.</p>
<p>Petition Rights A petition is valid if it consists of signatures from landowners that own at least 20% of the land within district or within 200 feet from area. A valid petition requires a ¾ vote of City Council.</p> <p>Boundary Changes Historic district boundaries can be enlarged or reduced through a re-zoning.</p> <p>To enlarge a historic district:</p> <ul style="list-style-type: none"> • A structure or area adds historic, architectural, archaeological or cultural value to the district; • The Historic Landmark Commission is provided with new information that indicates that a particular structure or area has architectural, archaeological, cultural or historical value; or • Exclusion of a structure or area from the district creates an economic hardship for the owner that limits the owner's ability to maintain the character of the exterior of the property. <p>To reduce a historic district:</p> <ul style="list-style-type: none"> • A structure or area does not add historic, architectural, archaeological or cultural value to the district; • The exclusion of a structure or area is necessary for major new development that would support the architectural, historical, archaeological or cultural character, or economic viability of the district; • Physical, historical, architectural, archaeological or cultural degradation of the district will not result from excluding the structure or area from the district; or • Inclusion of a structure or area from the district creates an economic hardship for the owner that limits the owner's ability to maintain the character of the exterior of the property. 	<p>City Council must approve enlargements and reductions to <i>historic districts</i>.</p> <p>To enlarge a historic district, both of the following must be met:</p> <ul style="list-style-type: none"> • A structure, group of structures or area adds historic, architectural, archaeological or cultural value to the district; • The owner(s) support addition of the structure to the historic district. <p>To reduce a historic district:</p> <ul style="list-style-type: none"> • The structure or group of structures does not contribute, or has lost its contributing status to the historic district through destruction by natural causes. • The exclusion of a structure or area is necessary for major new development that would support the architectural, historical, archaeological or cultural character, or economic viability of the district; • Degradation of the historic character of the district will not result from excluding the structure or area from the district; <p>Inclusion of a structure or area in the district creates an economic hardship for the owner that limits the owner's ability to maintain the character of the exterior of the property. Economic hardship is defined by 25-2-352(D).</p>

Current Code	Staff Recommended Changes
<p>Historic Landmark Commission Recommendation Requirements The recommendation to the Land Use Commission and City Council shall include the following:</p> <ul style="list-style-type: none"> • A statement of the reasons for recommending designation of the district; • A legal description of the boundary of the district; • Maps, charts, and photographs of the structures, sites or areas located in the district; • Findings that support the criteria for designating a historic district and that establish the importance of the district; • Recommendations for the protection and preservation of the district that are included in the District Preservation Plan <p><u>Preservation Plan Requirements</u></p> <p>Historic district preservation plan may:</p> <ol style="list-style-type: none"> (1) recommend changes to zoning regulations to address effects of existing uses on character and safety of district and to minimize negative economic and physical effects on district; (2) recommend amendments to building regulations to preserve architectural and historic integrity of district; (3) recommend amendments to sign regulations; (4) recommend changes to number and location of required parking spaces and changes to public and private parking lots, garages, and other parking structures in a district. (5) recommend regulations governing Certificate of Appropriateness for changes to exterior of a structure, including <ol style="list-style-type: none"> (a) acceptable materials for new construction (b) appropriate architectural character, scale and details for new construction (c) acceptable appearance and accessories to new and existing structures including gables, parapets, balconies, dormers, light fixtures, canopies, exterior carpentry, materials, banners and projections. (d) acceptable textures and ornamentation; 	<p>Remains the same, except that the district will have enforceable Design Standards, not recommendations or guidelines in a plan.</p>
<p>Historic district preservation plan required for each <i>Historic District</i> ordinance. Design guidelines for items not included in the HD ordinance, such as street design, would be adopted by a separate resolution.</p> <p>Instead of a district preservation plan recommending changes, a HD may modify and add regulations (similar to CURE combining district). A regulation established by the HD combining district may modify:</p> <ul style="list-style-type: none"> • Site development regulations applicable in the base district, including the height and setback requirements in Subchapter C, Article 10 (Compatibility Standards). • Off-street parking or loading requirements to reduce amount of parking. • Location of parking and loading facilities • Sign regulations • Landscaping or screening regulations applicable in the base district. <p>In addition, the HD may add requirements relating to:</p> <ul style="list-style-type: none"> • Exterior lighting • Building facade design • Exterior building materials, excluding paint colors • Fenestration • Subdivision and public works (streets, sidewalks) <p>Note: A modification to the base district regulations must be identified in the ordinance zoning or rezoning property as a HD combining district.</p>	<p>No specific district preservation plan required for each <i>Historic District</i> ordinance. Design guidelines for items not included in the HD ordinance, such as street design, would be adopted by a separate resolution.</p> <p>Instead of a district preservation plan recommending changes, a HD may modify and add regulations (similar to CURE combining district). A regulation established by the HD combining district may modify:</p> <ul style="list-style-type: none"> • Site development regulations applicable in the base district, including the height and setback requirements in Subchapter C, Article 10 (Compatibility Standards). • Off-street parking or loading requirements to reduce amount of parking. • Location of parking and loading facilities • Sign regulations • Landscaping or screening regulations applicable in the base district. <p>In addition, the HD may add requirements relating to:</p> <ul style="list-style-type: none"> • Exterior lighting • Building facade design • Exterior building materials, excluding paint colors • Fenestration • Subdivision and public works (streets, sidewalks) <p>Note: A modification to the base district regulations must be identified in the ordinance zoning or rezoning property as a HD combining district.</p>

Current Code	Staff Recommended Changes
<p>(e) building regulations applicable to new or existing buildings including regulations regarding wiring, fire walls, sprinklers, flammable materials, fire escapes,</p> <p>(f) recommend changes regarding public transit routes and schedules, one-way and two-way street patterns, park and ride facilities, shuttle services, and pedestrian facilities;</p> <p>(g) recommend architectural and engineering designs for public facilities including street lighting, street furniture, signs, landscaping, utility facilities, sidewalks and streets.</p>	<p>The modified and additional regulations would apply to:</p> <ul style="list-style-type: none"> • Renovations and additions to contributing structures • New construction (except interior remodels and additions to non-contributing structures) • Renovations to make a non-contributing structure contributing. • Non-contributing buildings would be exempt from HD regulations, except for the modified site development, parking, and compatibility standards requirements.
CERTIFICATE OF APPROPRIATENESS REQUIREMENTS:	
<p><u>Exterior Changes</u></p> <p>A Certificate of Appropriateness must be approved by the Historic Landmark Commission for non-routine maintenance on exterior of "historic landmarks." (It is unclear in the Code whether this review is required for historic districts as well.)</p>	<p>Remains the same, but also require certificate for exterior changes to contributing buildings in a local historic district.</p> <p>Examples of exterior changes include window replacement, porch additions, etc. Historic landmarks, but not contributing buildings in a <i>historic district</i>, require HLC approval for painting with a new color scheme.</p>
<p><u>Relocation</u></p> <p>A Certificate of Appropriateness must be approved by the Historic Landmark Commission for relocation of a historic landmark. There is one general set of guidelines to cover demolition and relocation reviews.</p>	<p>Remains the same, but also require certificate for relocation to contributing buildings in a local <i>historic district</i>.</p> <p>A non-contributing property in a <i>historic district</i> can get a relocation permit without a Certificate of Appropriateness.</p>
<p><u>Demolition</u></p> <p>A Certificate of Appropriateness must be approved by the Historic Landmark Commission for demolition of a historic landmark. There is one general set of guidelines to cover demolition and relocation reviews.</p>	<p>The requirements for demolition or relocation of a landmark and a property contributing to the historic district would be identical.</p> <p>A non-contributing property in a <i>historic district</i> can get a demolition permit without a Certificate of Appropriateness.</p>
NEGLECT AND REPAIR PROVISIONS	
<p>The Code requires that an owner of a designated landmark maintain the exterior of the building to ensure structural soundness. If deficient, then the Building and Standards Commission is required to hold a hearing and forward recommendation to City Council as to how to address the problems.</p>	<p>The inspectors for Building and Standards must forward all cases for demolition in <i>historic districts</i> to the HPO at least 10 days prior to the Building and Standards Commission meeting to coordinate the case between the B&S Commission and the HLC. If the building does not contribute to the historic district, the demolition order can proceed without a HLC hearing. Contributing buildings to a historic district will receive orders to repair rather than to demolish, unless the Historic Landmark Commission approves demolition of the structure.</p>

Current Code	Staff Recommended Changes
<p>OTHER INCENTIVES</p> <p>For historic landmarks, parking is not required for properties with CBD-H or DMU-H zoning.</p>	<p>Retain the parking incentive, and also apply to contributing buildings within <i>Historic Districts</i> if the following criteria are met:</p> <ul style="list-style-type: none"> • The historic structure is on property also of historic value (such as landscaping, architectural work, significant trees) and adding a parking lot would be detrimental to the historic value of the entire property. • Shared parking and off-site parking are not feasible. Off-site parking is not considered feasible of demolition of a contributing building is required to provide parking spaces. • The historic structure is situated on the property in such a way that adding the required amount of parking is not feasible or would require modifications of structure (attaching parking garage, removing a section of the structure, etc).
<p>For historic landmarks, compatibility standards not applicable if Historic Landmark Commission approves exterior or site changes.</p>	<p>Remains the same. This incentive is not applied to non-historic landmark properties within local <i>Historic Districts (HD)</i>, but does apply to contributing properties.</p>
<p>PENALTIES</p> <p>Unapproved exterior changes, demolitions or relocations of city historic landmarks are subject to penalties of \$2000 per day. (Penalties for violations in historic districts are unclear.)</p>	<p>In addition to city historic landmarks, add contributing buildings of a <i>historic district</i>.</p>



Proposed Historic Preservation Ordinance Amendments
City of Austin, Revised June 2, 2004

Revise Historic Landmark Designation Criteria

Background

In March of 1974, the City Council approved the creation of the historic landmark program. The ordinance created the Historic Landmark Commission, established review processes for relocation, demolition and exterior changes to historic landmarks and set forth thirteen criteria, of which only one had to be met, for designating historic landmarks. The current set of thirteen criteria has remained the same since their creation in 1974.

Staff Proposal

Staff recommends changing the designation criteria for city historic landmarks. Table II-A below lists the current designation criteria and the proposed criteria.

**Table II-A. Comparison of Current and Proposed
City Historic Landmark Designation Criteria**

Current	Proposed
<p>Meet at least one criteria:</p> <ol style="list-style-type: none"> 1) is part of the development, heritage, or cultural characteristics of the City, state or country; 2) is a recorded Texas Historic Landmark, a National Historic Landmark, or is in the National Register of Historic Places; 3) embodies distinguishing characteristics of an architectural type or specimen; 4) is the work of an architect or master builder whose individual work has influenced the development of the City; 5) embodies elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation; 6) is related to other distinctive structures or areas that are eligible for preservation under a preservation plan because of an architectural, historic, or cultural motif; 7) portrays the environment of a group of people in a historical era characterized by a distinctive architectural style; 8) has produced or can be expected to produce archaeological data affecting theories of historic or prehistoric interest; 9) exemplifies the cultural, economic, social, ethnic, or historical heritage of the City, state or country; 10) is the location of a significant historic event; 11) is identified with a person who significantly 	<p>To qualify as a city historic landmark, a property must meet ALL of the following three criteria:</p> <ol style="list-style-type: none"> 1. Be at least 50 years old, except if it possesses exceptional importance as set forth in National Register Bulletin 22, National Park Service (1996), AND 2. Retain sufficient integrity of materials and design to convey its historic appearance, AND 3. Meet either Criterion "A" or have significance in TWO of the areas delineated in Criteria "B" through "F": <p>A. CURRENT DESIGNATIONS The property is recognized for its historical or architectural significance by being:</p> <ol style="list-style-type: none"> 1. Individually listed in the National Register of Historic Places 2. Designated as a Recorded Texas Historic Landmark 3. Designated as a State Archeological Landmark 4. Designated as a National Historic Landmark. <p>B. ARCHITECTURE The property embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction, represents technological innovation in design and/or construction, represents a rare example of an architectural style, or serves as a representative example of the work of an architect, builder, or artisan, who significantly contributed to the</p>

<p>contributed to the culture and development of the City, state or country;</p> <p>12) is of value to a neighborhood, community area, or the City because of its location; OR</p> <p>13) has value as an aspect of community sentiment or public pride.</p>	<p>development of the city, state, or nation.</p> <p>C. HISTORICAL ASSOCIATIONS The property is significantly associated with persons, groups, institutions, businesses, or events of historical importance, which contributed to the historic of the city, state, or nation, OR the property represents a significant portrayal of the environment of a group of people in a historic time period.</p> <p>D. ARCHEOLOGY The property possesses archeological significance inthat it has, or is expected to yield significant data concerning the human history or prehistory of the region.</p> <p>E. COMMUNITY VALUE The property possesses a unique location or physical characteristic that represents an established and familiar visual feature of the neighborhood or the city, and contributes to the character or image of the city.</p> <p>F. LANDSCAPE FEATURES The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.</p>
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Proposed Historic Preservation Ordinance Amendments
City of Austin, Revised June 2, 2004

Streamline & Clean-Up Permit Review

Background

The Historic Landmark Commission (HLC) reviews applications for building, demolition, relocation, and sign permits in National Register districts, as well as applications for demolition and relocation permits on buildings with a potential for landmark designation. The Code specifies that the Building Official must notify the Historic Landmark Commission of all those permits.

Staff Proposal

Staff recommends six sets of changes aimed at improving and "cleaning up" the permit process as it pertains to historic preservation review. In summary they are:

1. *Allow administrative review and approval for small projects in National Register or local historic districts, and for minor construction work on individual historic landmarks.* Though the Code currently requires HLC approval for all types of development on historically-significant properties, the HLC has already informally delegated "minor" reviews to staff, and so these changes align current practice with the Code.

The table below explains the proposed criteria to be used for the administrative review and approval, and the proposed deadlines. A notice and public hearing at the HLC would not be required.

Applicability	Proposed Administrative Evaluation Criteria	Proposed Deadline
Minor projects on individual City historic landmark properties (building, sign permits, work that does not require permit)	Approve minor changes when proposed work meets Historic Landmark Commission guidelines, including: <ul style="list-style-type: none"> • Painting using the existing or original color scheme, • Addition of pools, decks and other landscape features that do not physically impact the historic building. • Routine maintenance and repairs using the same materials and design as the existing structures, or re-roofing using same shape, type and color of materials; • Signage, provided that the installation of the sign does not damage historic building materials. 	Approve/disapprove within 15 days after application
Minor projects on contributing buildings in National Register and local historic districts (building, sign permits)	Approve minor projects when proposed work meets applicable local Historic District (HD) regulations, NCCD regulations, or neighborhood design guidelines in National Register districts. Minor projects include: <ul style="list-style-type: none"> • Construction of a ground-floor, one-story addition and/or outbuilding of no more than 600 square feet • Accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site, unless a variance or waiver is required, 	Approve/Disapprove within 15 days after application

	<ul style="list-style-type: none"> • Construction of pools, decks, fences, back porch enclosures, and other miscellaneous minor work • Re-roofing using same shape, type and color of materials, • Signage, provided that the installation of the sign does not damage historic building materials, or • Remodeling projects which do not require the removal or replacement of historic building fabric, such as windows or doors.. 	
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2. Forward all site plans that specify demolition or relocation of a building to the Historic Preservation Office within 3 days of receipt of the site plan application. The Historic Preservation Office will complete its review within 21 calendar days after receipt of the site plan application.

Currently, a demolition or relocation permit application is not required at the same time the site plan is submitted. The lack of preliminary review of proposed demolition or relocation can result in a site plan being approved, but the demolition or relocation permit later being denied. Demolition permits are typically pulled right before the demolition work is to be done because the permit expires in 180 days. By enabling HPO review of site plan applications with proposed building removal, the HPO can perform a preliminary review of the proposed demolition or relocation to ensure a historically-significant property is not affected.

3. Clarify the deadlines for demolition review and Historic Landmark Commission hearings. The table below explains the changes:

Action	Current Deadline	Proposed Deadline
Review of demolition/relocation permits	Currently not stated	5 business days after permit application is filed.
Scheduling of HLC hearing on demolition and relocation permit applications (for properties denied administrative approval of demolition/relocation permit due to potential historic significance)	40 days after demolition/relocation permit application is filed.	45 calendar days after demolition/relocation permit application is filed.

4. Expand the list of architectural surveys and plans that may be consulted to determine historic significance by not listing specific documents in the Code, but rather granting the Historic Preservation Officer and the Historic Landmark Commission authority to determine acceptable surveys, lists and plans. Inventories compiled for National Register nominations will continue to be acceptable.

5. Create a professional services fund to hire an independent consultant to study architectural, structural or market-related issues associated with a historic zoning case. The source of funds would come from proposed application fees for demolition and

relocation permits, and design reviews for projects on historic landmarks or properties within historic districts.

6. *Change Code references from HLC and City Building Official to Historic Preservation Officer where appropriate to reflect current practices.*

Code Section	Description
25-11-215	(A) Building Official should notify Historic Preservation Officer (HPO) of all demolition and relocation permits, not the Historic Landmark Commission (HLC).
25-11-241	(B) All applications for Certificates of Appropriateness that do not require a building permit must be submitted directly to HPO instead of HLC.
25-11-242	(C) The HPO, not HLC, shall provide notice of hearing to the applicant.
25-11-243	(B) (2)-(3) and (C) (1)-(2) The HPO shall provide the certificate or notice of disapproval to the applicant directly, not the Building Official.



Proposed Historic Preservation Ordinance Amendments
City of Austin, Revised June 2, 2004

Create Alternative to Historic Zoning for Owner-Opposed Cases

Background

A historic zoning case may be initiated without the owner's consent if the Historic Landmark Commission does not approve a relocation or demolition permit and finds, after a public hearing, that the property meets at least one of the thirteen criteria used to determine historic significance. The owner can file a petition against the rezoning, which then requires a $\frac{3}{4}$ majority vote by City Council to approve the historic zoning. Though historic zoning makes the property eligible for property tax abatements, historic zoning can also limit the development potential of the site.

Staff Proposal

Though rare, owner-opposed cases are an unexpected turn of events for the owner. The current process involves two HLC hearings: at the first, the HLC considers whether the property meets any of the landmark designation criteria, and may initiate a historic zoning case. If the HLC initiates historic zoning, the HLC holds a second public hearing to make the decision whether to recommend historic zoning.

Staff recommends combining the two hearings into one, streamlining the process for an owner in opposition to historic zoning, but allowing the HLC to order a demolition delay of up to 65 days to receive evidence necessary to its decision on historic zoning, including the feasibility of preservation options, such as adaptive re-use, relocation, or execution of a preservation covenant. This proposed process would reduce the time delay and provide alternatives to historic zoning.

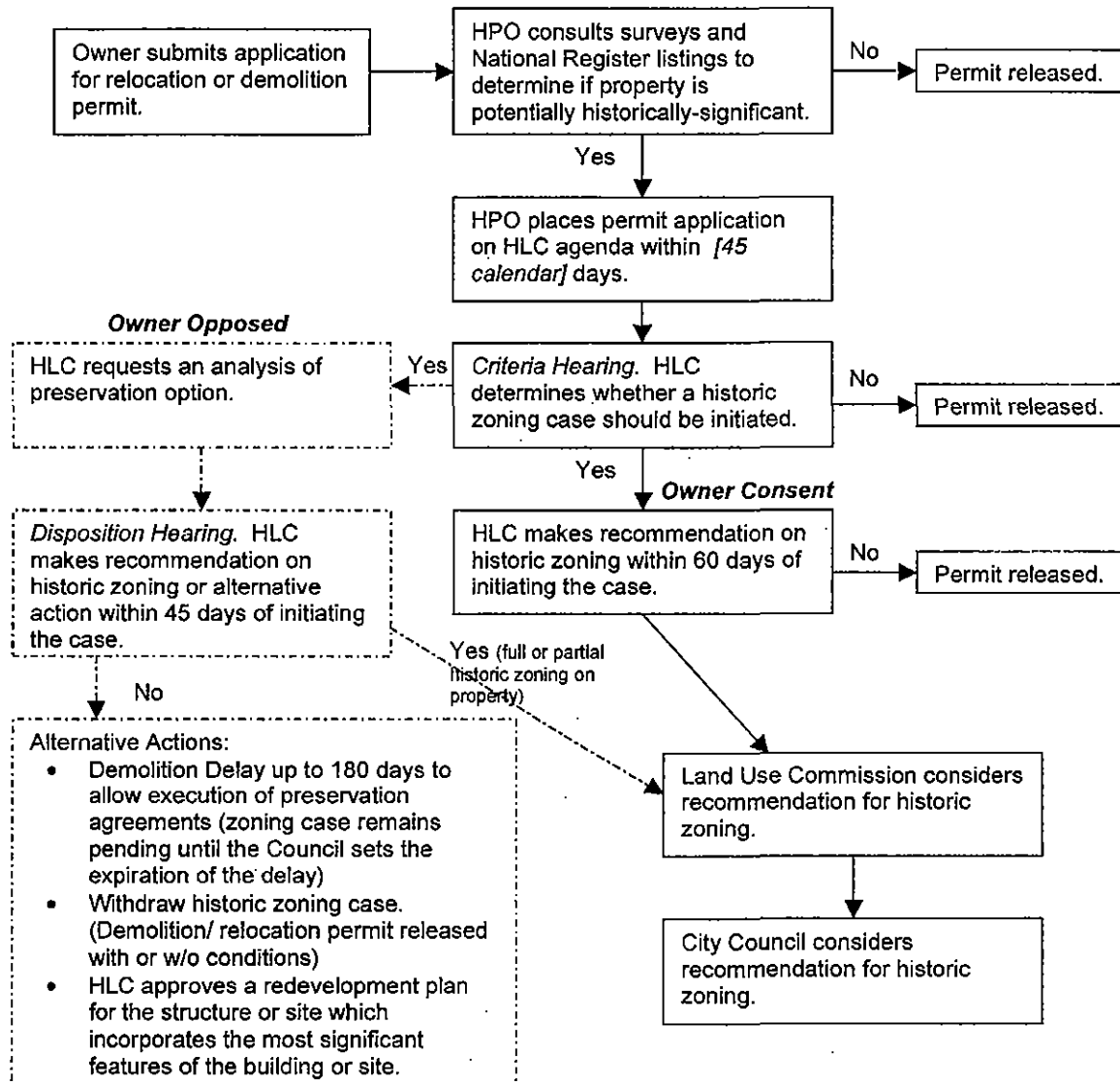
In addition, staff recommends increasing the minimum voting requirement, for owner-opposed historic zoning cases only, from the simple majority to a $\frac{2}{3}$ vote of the members in attendance at the hearing.

This flow chart shows the existing process, and within the shapes outlined in dotted lines, the proposed alternative process for owner-opposed historic zoning cases.

Historic Zoning Flow Chart: Current and Proposed

HPO= Historic Preservation Office
LUC= Land Use Commission

HLC= Historic Landmark Commission
CC= City Council





Proposed Historic Preservation Ordinance Amendments
City of Austin, Revised June 2, 2004

Revise Financial Incentives and Penalties

Background

State law allows municipalities to impose penalties for illegal changes to, or, removal or demolition of city-designated historic landmarks. The penalties that can be imposed require the owner to restore the structure to its former condition or to pay damages equal to the cost of constructing a reasonable facsimile of the structure.

State law also allows local authorities to provide a tax exemption for city-designated historic landmarks. The City of Austin, Austin Community College, Austin Independent School District, and Travis County all offer property tax incentives for designated historic landmarks in good condition to encourage continued preservation. Owners of historic landmarks must apply for the property tax exemption annually and the property must pass an inspection to ensure maintenance of the structure.

Staff Proposal

Revised Tax Incentives

Staff recommends reducing the percentage of the value of the land which qualifies for the exemption for both residential and income-producing historic landmarks, as well as creating new tax incentives for rehabilitation of contributing buildings in locally-designated historic districts.

Current Tax Incentives	Proposed Tax Incentives
HISTORIC LANDMARKS	
In accordance with City Code sections 5-5-20 through 22, city tax abatement for properties designated as "H" historic is permitted for properties "being preserved and maintained as required by the historic landmark regulations." Annual tax abatement is as follows:	Maintain the same tax incentives, except reduce the exemption on land values for both residences and income-producing:
City of Austin (also same for Travis County and ACC; half below amounts for AISD abatement): non-profit owned property or single-family residence: <ul style="list-style-type: none"> • 100% off assessed value of structure • 50% off assessed value of land 	City of Austin (also same for Travis County and ACC; half below amounts for AISD abatement): non-profit owned property or single-family residence: <ul style="list-style-type: none"> • 100% off assessed value of structure • 25% off assessed value of land
All other properties: <ul style="list-style-type: none"> • 50% off assessed value of structure • 25% off assessed value of land 	All other properties: <ul style="list-style-type: none"> • 50% off assessed value of structure • 0% off assessed value of land

Current Tax Incentives	Proposed Tax Incentives
CONTRIBUTING BUILDINGS- REHABILITATION INCENTIVES	
<p>REHABILITATION INCENTIVES: Rehabilitation projects to contributing buildings in local historic districts (not National Register), would be eligible for a property tax incentive.</p>	
<ul style="list-style-type: none"> All rehabilitation projects must be pre-approved by the HLC. Restoration or replacement of documented architectural features would be an eligible rehabilitation expense; construction of new additions would be excluded from the incentive. The City Building Official will certify the rehabilitation work at the end of the project to ensure that all city building codes have been met. Rehabilitation of non-contributing buildings are eligible for this incentive if the Historic Landmark Commission finds that the completion of the project will result in a change in status of the building from non-contributing to contributing. 	
Residential Owner-Occupied	
None	<ul style="list-style-type: none"> OWNER-OCCUPIED RESIDENCES would be eligible for a property tax freeze at the building's pre-rehab value for 10 years. The rehabilitation project must cost at least 25% of the pre-rehab value of the building; at least 10% of the pre-rehab value must involve restoration of the exterior. LOW-INCOME OWNER-OCCUPIED RESIDENCES would be eligible for a 100% property tax exemption on the value of the structure for 7 years after completion of the work and certification by the HLC. The applicant would provide certification of eligibility for the low-income tax exemption; qualified rehabilitation expenses must cost at least 15% of the pre-rehab value of the building; at least 5% of the pre-rehab value must involve restoration of the exterior. The exemption could be transferred to a new purchaser of the property, but only if that person also qualifies as low-income.
Multi-Family Low Income	
None.	<ul style="list-style-type: none"> MULTI-FAMILY LOW INCOME properties would be eligible for a 100% property tax exemption on the value of the structure for 7 years after completion of the work and certification by the HLC. At least 40% of the units in the building must be dedicated to low-income tenants. The qualified rehab expenses must equal at least 35% of the pre-rehab value of the building; at least 10% of the pre-rehab value must involve restoration of the exterior. The exemption would cease if the property no longer complies with eligibility requirements for low-income tenants.
Income-Producing (Commercial)	
None.	<ul style="list-style-type: none"> INCOME-PRODUCING PROPERTIES would be eligible for a property tax freeze at the pre-rehab value of the property for 7 years after completion of work and certification by the HLC. Qualified rehab expenses must equal at least 35% of the pre-rehab value of the building; at least 10% of the pre-rehab value must involve restoration of the exterior.

In addition to the proposed revisions to the tax incentives, staff recommends an additional penalty to protect city-designated historic landmarks.

New Penalty

Staff recommends that for cases where a designated historic landmark is demolished without HLC approval, the City could prohibit new permits or redevelopment permit applications on the property for three (3) years.

RESOLUTION OF THE HISTORIC LANDMARK COMMISSION

WHEREAS, the City Council established the Historic Preservation Task Force to examine and make recommendations regarding the City's historic preservation ordinances; and

WHEREAS, the Historic Landmark Commission has reviewed the report of the Historic Preservation Task Force and the staff memo regarding changes to the City's historic preservation ordinances, and

WHEREAS, the Historic Landmark Commission agrees with many of the recommendations of the Historic Preservation Task Force and staff,

NOW, THEREFORE, the Historic Landmark Commission **RESOLVES** to offer the following recommendations which differ from those of the Historic Preservation Task Force or staff:

- 1. Maintain the current eligibility criteria for historic landmark property tax exemptions.** Any property designated a historic landmark should be eligible for the property tax incentive, without regard to the age of the building, the date of designation, or a change in ownership. The Commission is concerned that raising the "bar" for eligibility for the property tax incentive to 75 years as suggested by the Historic Preservation Task Force will needlessly endanger historically-significant properties which otherwise qualify for landmark designation.
- 2. Commission an economic study to determine the impact of changing the amount of the property tax exemption for historic landmarks.** Austin's current property tax incentive program works well to preserve the city's most important historic buildings. A change in the value of the incentive could endanger the continued preservation of landmarks already vulnerable to demolition because the value of the land is greater than the value of the structure, and warrants a full investigation of potential impacts.
- 3. Establish local historic districts with property tax incentives to encourage the rehabilitation and preservation of buildings which contribute to the historic character of the district.** The Commission recommends that the rehabilitation incentive should be limited to contributing buildings, as well as projects which would restore a non-contributing building to contributing status within the district. The Commission further recommends the establishment of a special rehabilitation property tax incentive for low-



MEMORANDUM

TO: Mayor and Council

FROM: Austan S. Librach, P.E., AICP
Director
Transportation, Planning & Sustainability Department

DATE: July 27, 2004

SUBJECT: Local Historic District Zoning

Pursuant to the request of Council Member Slusher, we are pleased to provide a "primer" on local historic districts. Austin does not currently have local historic district zoning. The only recognized historic designations in Austin are buildings which are city historic landmarks and those within National Register Historic Districts.

Purpose of Local Historic Districts

Local historic districts are created to preserve and protect the historic character of a grouping of properties that generally have a distinguishing architectural unity. Most local historic district ordinances provide for:

- Design standards
- Property tax incentives to rehabilitate historic buildings within the district

Most cities make a distinction between "contributing" and "non-contributing" buildings for purposes of applying design standards and eligibility for the rehabilitation incentive. Contributing buildings are those that contribute to the historic character of the district and are so designated in the definition of the district.

Design Standards

Design standards govern the scale, massing, materials and design of any new construction in the historic district. Complying with *mandatory* design standards that are established within a district-wide preservation plan ensures that new construction complements the historic character of the property and/or district. By contrast, Austin currently has 14 National Register Historic Districts (NHRDs), which may or may not have non-binding design *guidelines*.

Property Tax Incentives

Many cities, such as Dallas, provide property tax incentives for rehabilitating structures in historic districts to promote the continued viability of historic buildings. To qualify for the property tax incentive, most cities require that the building be *contributing*, that the property owner invest a certain percentage of the pre-rehabilitation value of the property in "qualified rehabilitation expenditures" and that a certain percentage of the rehabilitation address exterior rehabilitation. The incentive is an abatement of the taxes on the added value of the property for up to 10 years - the maximum allowed by state law.

Historic Preservation Task Force Recommendation for Creating Local Historic Districts in Austin

The Historic Preservation Task Force recommended the establishment of local historic districts with the following criteria:

- ❑ At least 51% of the principal buildings within a proposed local historic district must contribute to the historic character of the district, in conformance with the designation criteria for National Register Historic Districts.
- ❑ An application to designate a local historic district must contain an inventory of the properties included in the district and a professional evaluation of their status as contributing or non-contributing.
- ❑ A local historic district could be initiated by Council, the Historic Landmark Commission, staff (if recommended in a neighborhood plan) or a petition endorsed by at least 50% of all property owners in the proposed district.*
- ❑ Local historic districts would be a combining district overlay, labeled "HD" on the zoning maps to differentiate them from the City's historic landmarks, which are individually designated properties of historical significance. Historic landmarks, even within a local historic district, would be labeled "H" and follow separate Code provisions for permit reviews.
- ❑ The Historic Preservation Task Force recommended that each local historic district have an ordinance containing a district preservation plan, setting out the design standards and any allowed modifications to site development or compatibility regulations. Design standards would apply to all new construction, including additions to existing contributing structures. Modifications to non-contributing structures would be subject to district-specific site development and compatibility standards, as well as design standards relating to scale and massing. Design standards would not be used to promote a false historic appearance of a modern building.
- ❑ A Certificate of Appropriateness from the Historic Landmark Commission would be required for changes to the exterior or site of contributing buildings in the historic district. Staff may approve demolition and relocation permit applications for non-contributing buildings. Contributing buildings would be protected by the same penalties applicable to illegal demolition of designated historic landmarks.
- ❑ The Historic Preservation Task Force recommended the following property tax incentives for rehabilitation**
 - Rehabilitation of owner-occupied residences would be eligible for an abatement on the added value of the property for 7 years, provided that the owner invests at least 25% of the pre-improvement value of the structure in qualified rehabilitation expenditures, including at least 5% of the pre-improvement value of the structure in qualified expenditures to the exterior of the property.
 - Rehabilitation of income-producing property would be eligible for an abatement on the added value of the property for 10 years, provided that the owner invests at least 40% of the pre-improvement value of the structure in qualified rehabilitation

expenditures, including at least 5% of the pre-improvement value in qualified expenditure to the exterior of the property.

In order to receive the abatement, all applicants for the incentive would be required to obtain approval from the Historic Landmark Commission for the rehabilitation and certification from the Commission that the work was done in accordance with the approved plans.

The Historic Preservation Taskforce proposed code changes are on the Council agenda for July 29, 2004. If you need additional information, please contact Steve Sadowsky, Historic Preservation Officer, 974-6454.



Austan S. Librach, P.E., AICP

Director

TRANSPORTATION, PLANNING & SUSTAINABILITY DEPARTMENT

c: Toby Hammett Futrell, City Manager
Laura J. Huffman, Assistant City Manager
Steve Sadowsky, Historic Preservation Officer
Mike English, Law

*Staff clarification: The nomination to the Historic Landmark Commission must have the signatures of at least 50% of the affected property owners.

**An alternative recommendation from the Planning Commission, Historic Landmark Commission, Preserve Austin, and staff is that the property tax incentive for rehabilitation be limited only to *contributing* buildings in the district, or to non-contributing buildings if the rehabilitation project will restore the building to contributing status, and that the abatement run for 10 years for both owner occupied and income producing property, the maximum allowed under state law. Staff further recommends that the projects qualifying for the incentives be limited to those which restore the historic character of the building; additions would not be eligible for the incentive.